

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFEDERAL
PRACTICE OFFICE
APR 1 2005 10:21 AM
U.S. DISTRICT COURT
DISTRICT OF MASS.

EBEN ALEXANDER, III, M.D.

Plaintiff,

BRIGHAM AND WOMEN'S PHYSICIANS

ORGANIZATION, INC., successor to

Brigham Surgical Group Foundation, Inc.,

BOSTON NEUROSURGICAL FOUNDATION

INC., BRIGHAM SURGICAL GROUP

FOUNDATION, INC. DEFERRED

COMPENSATION PLAN, BRIGHAM

SURGICAL GROUP FOUNDATION, INC.

FACULTY RETIREMENT BENEFIT

PLAN, COMMITTEE ON COMPENSATION

OF THE BRIGHAM SURGICAL GROUP

FOUNDATION, INC., and PETER BLACK, M.D.

Defendants.

Case No. 04-10738-MLW

**EMERGENCY JOINT MOTION FOR THREE DAY EXTENSION
OF PLAINTIFF'S RULE 56 DEADLINE**

The parties hereby respectfully request that this Court extend the time for Plaintiff Eben Alexander, III, M.D. to file his Motion for Summary Judgment and for the parties to file their Stipulated Facts for Cross Summary Judgment Motions by three days to April 8, 2005. In support of this motion, the parties state as follows:

1. The current deadline for Plaintiff's Motion for Summary Judgment is April 5, 2005.
2. The parties have been working together cooperatively and effectively to exchange information and to stipulate to all facts that will provide the basis for the Court's decision on the sole issue to be addressed in the summary judgment papers (*i.e.*, whether the Brigham Surgical

Group Foundation, Inc.'s unfunded deferred compensation plans constitute valid "top hat" plans under ERISA) and have circulated versions of a stipulation of facts to be filed with Plaintiff's Motion for Summary Judgment.

2. The parties need a bit more time to try to reach agreement regarding a complete and inclusive stipulation.

3. This extension is necessary primarily because both Plaintiff's lead counsel and Defendants' lead counsel have been out of the office because of other commitments. Mr. Paris has been out of the office during the past few weeks because of the birth of his son. Mr. Casey has been in San Francisco and in Arizona for the last week on business.

WHEREFORE, the parties respectfully request that this Court extend the time for Plaintiff to file his Motion for Summary Judgment and for the Parties to file their Stipulated Facts for Cross Motions for Summary Judgment to April 8, 2005.

Respectfully submitted,

For the Plaintiff,

EBEN ALEXANDER , III M.D.

For the Defendants,

BRIGHAM AND WOMEN'S PHYSICIANS
ORGANIZATION, INC., BOSTON
NEUROSURGICAL FOUNDATION INC.,
BRIGHAM SURGICAL GROUP
FOUNDATION, INC. DEFERRED
COMPENSATION PLAN,
BRIGHAM SURGICAL GROUP
FOUNDATION, INC. FACULTY
RETIREMENT BENEFIT PLAN,
COMMITTEE ON COMPENSATION OF
THE BRIGHAM SURGICAL GROUP
FOUNDATION, INC., and PETER BLACK,
M.D.,

By his attorneys,

Colleen Cook /s/

Michael Paris (BBO No. 556791)
Colleen C. Cook (BBO No. 636359)
NYSTROM BECKMAN & PARIS
10 St. James Avenue, 16th Floor
Boston, MA, 02116
(617) 778-9100

Laurie Drew Hubbard

David C. Casey (BBO No. 077260)
Gregory C. Keating (BBO No. 564523)
Laurie Drew Hubbard (BBO No. 651109)
LITTLER MENDELSON, PC
One International Place, Suite 2700
Boston, MA 02110
(617) 368-6000

Dated: April 5, 2005

Boston:7427.1